IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 35199 of 2007(M)

PETITIONER:

G.SUNNYKUTTY, S/O. LATE GEORGE,
AGED 43 YEARS, OTTATHENGIL, ANAPRAMBAL NORTH P.O.,
THALAVADY, ALAPPUZHA.

BY ADV. SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD,
THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY.

2. EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION, ALAPPUZHA.

3. ASST. EXECUTIVE ENGINEER,
ELECTRICAL SECTION, EDATHUA.

4. ASST. ENGINEER,
ELECTRICAL SECTION, EDATHUA.

5. C.D.R.F.,
ALAPPUZHA, (CONSUMER DISPUTES REDRESSAL FORUM).

BY SHRI.P.P.THAJUDEEN, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 35199 of 2007

Dated, this the 28th day of November, 2007

J U D G M E N T

Anti Power Theft Squad of Kerala State Electricity Board conducted inspection at petitioner's industrial premises and consequent upon detection of theft of power, Ext.P1 bill was raised for Rs.1,92,806/-. Petitioner was granted instalments to clear arrears and petitioner remitted around Rs.1,15,683/- in three instalments and balance amount is only around Rs.77,123/-, which is payable in two instalments. Petitioner has now filed petition before the CDRF along with an interlocutory application for an order of injunction. This writ petition is filed for stay against disconnection, pending disposal of the matter by the CDRF.

2. I have heard learned counsel for petitioner and learned standing counsel for KSEB.

3. Petitioner is not entitled to the relief prayed for before CDRF for the simple reason that Electricity Act 2003 provides Forum for settlement of dispute against the Electricity Board. Section 126(3) of the Act provides for filing of objections before finalising the bill and if petitioner has any grievance against final bill, he has to necessarily file appeal before the higher authority as provided

under Section 127 of the Act. Therefore, petitioner is directed to withdraw the case filed before the CDRF, and along with the withdrawal memo, if petitioner files an appeal before the Deputy Chief Engineer against the disputed electricity bill within a period of one month from now, the Deputy Chief Engineer will hear the petitioner and dispose of the appeal.

4. In view of the dispute raised by the petitioner, though at this stage, I feel recovery of one instalment can be stayed till disposal of the appeal, to be filed as above. Accordingly, this writ petition is disposed of directing respondents not to recover arrears due under disputed bill or disconnect supply until disposal of the appeal, if an appropriate appeal is filed by the petitioner within a period of one month from now as above, and on petitioner remitting one more instalment within a period of three weeks from now. If petitioner files appeal and remits one instalment, then recovery of the balance one instalment will be kept in abeyance till disposal of the appeal. Thereafter recovery will be based on orders in appeal. If reduction granted is more than the amount covered by the last instalment, respondents will adjust excess payment against future bills.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg